

c2019-228I
OPP--OPPOSITION

LEGISLATIVE COUNCIL

Children's Guardian Bill 2019

First print

Proposed amendments

- No. 1 **Reasonable time for investigations or determinations**
Page 21, proposed section 34. Insert after line 27—
- (3) The investigation or determination must be completed within a reasonable time.
Note. Section 134 requires information to be reported in particular circumstances.
- No. 2 **Reasonable time for investigations or determinations**
Page 26, proposed section 46. Insert after line 2—
- (3) The investigation or determination must be completed within a reasonable time.
Note. Section 134 requires information to be reported in particular circumstances.
- No. 3 **Registers kept by Children's Guardian**
Page 39, after line 37—
- 85A General access to registers**
- (1) The Children's Guardian must ensure that information on the register is not disclosed except—
- (a) as provided by this Division, or
- (b) as required or permitted to be disclosed under another Act or law.
- (2) A residential care provider must have access to the information on the register in relation to—
- (a) a person who has applied for a role with the residential care provider, and
- (b) a residential care worker employed by the residential care provider.
- (3) An entity that provides or arranges voluntary out-of-home care must have access to the information on the register in relation to—
- (a) a person who has applied for a role with an entity that arranges or provides voluntary out-of-home care, and
- (b) a person employed by an organisation to provide out-of-home care for the entity.

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- (4) The Children's Guardian must provide access to information held on the register to any of the following persons if asked by the person—
- (a) the Secretary,
 - (b) the Minister for Families, Communities and Disability Services,
 - (c) the Ombudsman.

85B Permission to access register

- (1) This section applies—
- (a) to a person whose details are included on the register, and
 - (b) in addition to any requirement under section 14 of the *Privacy and Personal Information Protection Act 1998*.
- (2) The person may ask any of the following entities to give the person all the information that is included on the register in relation to the person—
- (a) the Children's Guardian,
 - (b) an employing residential care provider,
 - (c) an out-of-home care provider.
- (3) The Children's Guardian or employing residential care provider must comply with the request as soon as practicable after the request is made.
- (4) Despite subsection (3), information included on the register in relation to the person must not be provided if—
- (a) the information is about a reportable allegation or reportable conviction, or
 - (b) a reportable conduct flag is on the register in relation to the person, applies to the information.
- (6) It is an offence for a person to access or amend the register except as provided by this Act or the Regulations.
Maximum penalty—100 penalty units.
- (5) In this clause—
employing residential care provider means a residential care provider that employs, or has previously employed, a residential care worker making a request.

85C Requirement to amend register in particular circumstances

A residential care provider or an entity that provides or arranges voluntary out-of-home care with access to the register must remove a reportable conduct flag for a person if the finding of the investigation or determination to which the flag applies is that the person does not pose a real and appreciable risk to a child or children.

No. 4 **Annual reports**

Page 55, proposed section 134. Insert after line 4—

- (f) the number of investigations or determinations, in relation to reportable allegations or reportable convictions, that have not been completed by a relevant entity or the Children's Guardian within 6 months after the commencement of the investigation or determination,
- (g) the number of persons on the residential care workers register kept under section 85(1)(b) who have a reportable conduct flag noted, if the investigation or determination has not been completed by a relevant entity or the Children's Guardian within 6 months after the commencement of the investigation or determination.

No. 5 **Guidelines**

Page 71, proposed section 170. Insert after line 20—

- (c) processes to follow to ensure procedural fairness and natural justice for employees the subject of an investigation or determination under the reportable conduct scheme,

No. 6 **Meaning of “reportable conduct flag”**

Page 110, Dictionary. Insert after line 11—

reportable conduct flag, in relation to a person, means a notation on a register that the person is the subject of an investigation or determination under the reportable conduct scheme.